

The Honorable Marsha J. Pechman

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CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
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07-CV-00475-ORD

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DIANNE L. KELLEY,

Plaintiff,

v.

MICROSOFT CORPORATION, a Washington  
Corporation,

Defendant.

No. CV07-00475 MJP

STIPULATION AND  
[PROPOSED] ORDER  
GRANTING LEAVE TO FILE  
AMENDED COMPLAINT  
SUBJECT TO CONDITIONS

## STIPULATION

Plaintiff Dianne L. Kelley and defendant Microsoft Corporation, through their undersigned counsel, stipulate and agree as follows:

On March 29, 2007, Ms. Kelley filed a Complaint against Microsoft, seeking recovery under the Washington Consumer Protection Act and alleging unjust enrichment. On May 8, 2007, before Microsoft filed a responsive pleading, Ms. Kelley filed an Amended Complaint, asserting additional causes of action under the Magnuson-Moss Warranty Act and for breach of contract. On May 25, 2007, Microsoft filed a motion to dismiss the Amended Complaint in its entirety, and the parties completed briefing on Microsoft's motion to dismiss on June 22, 2007.

Ms. Kelley has now asked Microsoft to stipulate to the filing of a Second Amended Complaint, which would add Kenneth Hansen as an additional named plaintiff but would not

STIPULATION AND ORDER GRANTING LEAVE TO FILE SECOND  
AMENDED COMPLAINT (CV07-00475 MJP) - 1  
SEA 2051516v2 0025936-000689

Davis Wright Tremaine LLP  
LAW OFFICES  
Suite 2200 - 1201 Third Avenue  
Seattle, Washington 98101-3045  
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1 otherwise add to or elaborate on the substantive allegations of Ms. Kelley's Amended  
2 Complaint. Subject to the Court's approval, the parties stipulate and agree as follows:

3 1. The proposed Second Amended Complaint attached hereto as Exhibit A should  
4 be allowed;

5 2. Microsoft's pending motion to dismiss shall be deemed directed to the Second  
6 Amended Complaint, as the Second Amended Complaint does not modify the substantive  
7 allegations set forth in the Amended Complaint; and

8 3. The discovery that Microsoft served on Ms. Kelley on Friday, July 6, 2007,  
9 shall be deemed to have been served on the new plaintiff, Kenneth Hansen, although Mr.  
10 Hansen may respond to these discovery requests on or before August 13, 2007.

11 DATED this 12th day of July, 2007.

12 Davis Wright Tremaine LLP  
13 Attorneys for Defendant  
Microsoft Corporation

14 By /s/ Stephen M. Rummage

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1 DATED this 12th day of July, 2007.

2 GORDON TILDEN THOMAS &  
3 CORDELL LLP  
Attorneys for Plaintiff Dianne L. Kelley

4 By /s/ Jeffrey M. Thomas

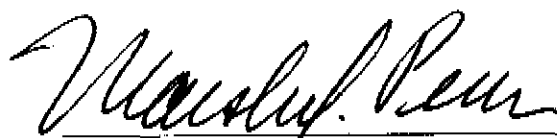
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17 **ORDER**

18 IT IS HEREBY ORDERED AS FOLLOWS:

- 19 1. Plaintiff Dianne Kelley is hereby granted leave to file her Second Amended  
20 Complaint in the form attached hereto as Exhibit A.
- 21 2. Microsoft's pending motion to dismiss shall be deemed directed to the Second  
22 Amended Complaint and, thus, the ruling from the Court shall be effective as to the Second  
23 Amended Complaint.
- 24 3. The discovery that Microsoft served on Ms. Kelley on Friday, July 6, 2007,  
25 shall be deemed to have been served on the new plaintiff, Kenneth Hansen, although Mr.  
26 Hansen may respond to these discovery requests on or before August 13, 2007.

27 DATED this 13 day of July, 2007.



MARSHA J. PECHMAN  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2007, I electronically filed the foregoing Stipulation and [Proposed] Order Granting Leave to File Amended Complaint Subject to Conditions with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED this 12<sup>th</sup> day of July, 2007.

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